

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

AMERANTH, INC.

vs.

PAR TECHNOLOGY CORP., ET AL.

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CASE NO. 2:10-CV-294-DF-CE

**ORDER**

The above-titled and numbered civil action was referred to United States Magistrate Judge Chad Everingham pursuant to 28 U.S.C. § 636. The report of the Magistrate Judge (Dkt. No. 107) has been presented for consideration. The report recommends that the court grant defendant Kudzu Interactive, Inc.’s (“Kudzu”) motion to dismiss in part. It is recommended that the court grant the motion with regard to the claims of the patents-in-suit that have been previously-litigated and found invalid. The report, however, recommends that the court deny the motion with regard to all other claims of the patents-in-suit. Neither party filed objections to the report.

The court is of the opinion that the conclusions of the Magistrate Judge are correct. Therefore, the court adopts the report of the United States Magistrate Judge, in its entirety, as the conclusions of this court. Accordingly, it is ORDERED that Kudzu’s motion to dismiss is GRANTED-in-PART and DENIED-in-PART. The motion is GRANTED with regard to the following claims of the patents-in-suit: (1) claims 1, 3, and 4 of the ’850 patent; (2) claims 1, 6, 9, and 10 of the ’325 patent; and (3) claims 1 and 3 of the ’733 patent. The motion is DENIED with regard to all other claims of the patents-in-suit that were not found invalid in the first case.

It is FURTHER ORDERED that, in light of the court’s dismissal of the claims enumerated above, defendants Par Technology Corp. and Partech, Inc.’s motion to dismiss (Dkt. No. 88) and defendants Menusoft Systems Corp. and Cash Register Sales & Service of Houston, Inc.’s motion

to dismiss (Dkt. No. 89) are DENIED as moot.

**SIGNED this 19th day of September, 2011.**

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE